



## Senate

General Assembly

January Session, 2013

**File No. 648**

Senate Bill No. 115

*Senate, May 1, 2013*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

### ***AN ACT CONCERNING RESIDENTIAL NURSING HOME FACILITIES SERVING INMATES AND MENTAL HEALTH PATIENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 18-100i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Correction, at the commissioner's  
4 discretion, may release an inmate from the commissioner's custody,  
5 except an inmate convicted of sexual assault under the provisions of  
6 sections 53a-70 to 53a-71, inclusive, 53a-72a, 53a-72b and 53a-73a, a  
7 capital felony under the provisions of section 53a-54b in effect prior to  
8 April 25, 2012, or murder with special circumstances under the  
9 provisions of section 53a-54b in effect on or after April 25, 2012, for  
10 placement in a licensed community-based nursing home under  
11 contract with the state for the purpose of providing palliative and end-  
12 of-life care to the inmate if the medical director of the Department of  
13 Correction determines that the inmate is suffering from a terminal  
14 condition, disease or syndrome, or is so debilitated or incapacitated by

15 a terminal condition, disease or syndrome as to (1) require continuous  
 16 palliative or end-of-life care, or (2) be physically incapable of  
 17 presenting a danger to society.

18 (b) The Commissioner of Correction may require as a condition of  
 19 release under subsection (a) of this section that the medical director  
 20 conduct periodic medical review and diagnosis of the inmate during  
 21 such release. An inmate released pursuant to subsection (a) of this  
 22 section shall be returned to the custody of the Commissioner of  
 23 Correction if the medical director determines that the inmate no longer  
 24 meets the criteria for release under subsection (a) of this section.

25 (c) Any inmate released from the custody of the Commissioner of  
 26 Correction pursuant to subsection (a) of this section shall be  
 27 supervised in the community by the Department of Correction.

28 (d) Nothing in this section shall be construed to limit any powers  
 29 lawfully exercised by any zoning commission or any planning and  
 30 zoning commission pursuant to chapter 124.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	18-100i

**PH**                      *Joint Favorable C/R*

JUD

**JUD**                      *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Correction, Dept.	GF - Potential Cost	Minimal	Minimal

**Municipal Impact:** None

**Explanation**

The bill results in a potential cost to the Department of Correction to the extent that it limits the number of inmates eligible for transfer to community based care. The population eligible for transfer is approximately 25 for the underlying statute, which may be reduced by the bill.

**The Out Years**

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****SB 115****AN ACT CONCERNING RESIDENTIAL NURSING HOME FACILITIES SERVING INMATES AND MENTAL HEALTH PATIENTS.****SUMMARY:**

This bill places additional restrictions on which inmates the Department of Correction (DOC) commissioner can release to nursing homes under contract with the state for palliative and end-of-life care. It prohibits him from releasing to nursing homes inmates convicted of 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, or 4<sup>th</sup> degree sexual assault; 1<sup>st</sup> degree aggravated sexual assault; sexual assault in a spousal or cohabiting relationship; aggravated sexual assault of a minor; or 3<sup>rd</sup> degree sexual assault with a firearm.

The bill also specifies that the law allowing the DOC commissioner to release inmates in this manner must not be construed to limit any powers that a zoning or planning and zoning commission lawfully exercises pursuant to the zoning statutes.

EFFECTIVE DATE: Upon passage

**BACKGROUND*****Release of Inmates to Nursing Homes***

PA 12-1, June 12, 2012 Special Session, gave the DOC commissioner the discretion to release certain inmates from custody for nursing home placement for palliative and end-of-life care, under certain conditions. DOC must supervise any inmate released to the community in this manner.

The placement must be in a licensed community-based nursing home under contract with the state. Before the commissioner can

authorize such a placement, the DOC medical director must determine that the inmate is suffering from a terminal illness or is so debilitated or incapacitated by it as to (1) need continuous palliative or end-of-life care or (2) be physically incapable of presenting a danger to society.

As a condition of the nursing home placement, the commissioner can require the DOC medical director to periodically review and diagnose the inmate. An inmate must be returned to DOC custody if the medical director determines that he or she no longer meets the release criteria described above.

Under the act, inmates cannot be released to a nursing home if they were convicted of (1) a capital felony under the applicable law in effect before April 25, 2012, or (2) murder with special circumstances under the law in effect on or after that date (CGS § 18-100i).

### ***State Contract to Establish Facility***

The law (CGS § 17b-372a, enacted in 2011) allows the DOC, Department of Mental Health and Addiction Services (DMHAS), and Department of Social Services (DSS) commissioners to establish or contract to establish a nursing home on state-owned or private property for people who require nursing home-level care and are (1) transitioning from prison into the community or (2) are DMHAS clients. The facility's development is exempt from the state's certificate of need requirements.

In February 2012, DMHAS issued a request for proposals, in conjunction with DOC and DSS, to select a vendor to operate such a facility. The vendor selected by DMHAS chose as the project site a former nursing home in Rocky Hill. The town challenged the project in court, alleging, among other things, that the facility violates local zoning requirements. On April 23, 2013, the Superior Court dismissed the case. The town has appealed.

### **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Change of Reference

Yea 26 Nay 1 (04/02/2013)

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/19/2013)